

## CHAPTER 12-48 EMPLOYMENT OF INMATES OF THE PENITENTIARY

**12-48-01. Employment of offenders.** All offenders committed to the department of corrections and rehabilitation may be employed for the benefit of the state to the extent employment is available.

**12-48-02. Director of the department of corrections and rehabilitation to make rules regarding employment of offenders.** The director of the department of corrections and rehabilitation shall establish rules and regulations relating to the care, treatment, employment, and management of all offenders committed to the legal and physical custody of the department.

**12-48-03. Manner of employing offenders.** The director of the department of corrections and rehabilitation and the warden of the penitentiary shall attempt to employ all offenders committed to the legal and physical custody of the department in maintaining the penitentiary and penitentiary grounds, in carrying on the work of the industries established at the penitentiary or at other state institutions, in doing any work necessary to be done in the erection, repair, or improvement of any of the state buildings, including the executive mansion, and the grounds of such buildings, or in the construction and improvement of the public highways of the state. The department may employ offenders in work projects for county and local governmental agencies and subdivisions. The department shall employ offenders when practicable in the work to which they are best adapted and in the work that will make it possible for them to acquire skill so that they will be able to earn a livelihood when they are paroled or discharged from the institution. The department may employ offenders outside the yard of the penitentiary in cultivating and improving any ground belonging to the department. The department must be held responsible for the escape of any offender notwithstanding that such employment is outside the penitentiary if the escape is made possible through the negligence of the department.

**12-48-03.1. The director of the department of corrections and rehabilitation may establish and engage in new prison industries.** The warden of the state penitentiary, under the direction and with the approval of the director of the department of corrections and rehabilitation, is authorized to establish and engage in such new prison industries as the director deems necessary and which are of greatest benefit to and in the best interest of the state of North Dakota, the department, and offenders committed to the legal and physical custody of the department. The warden, with the approval of the director, may also discontinue industries when necessary. The director and the warden shall make all rules and regulations and do all things necessary or incidental to the establishing and maintaining of prison industries including the manufacture, sale, or distribution of prison industries produce or products, and, so far as is compatible with the efficient operation of the industry, shall use offenders committed to the department as laborers in such industries. The director and warden shall also do all things necessary and incidental to the discontinuance of those industries no longer necessary or beneficial to the department. Except as provided in subsections 1, 2, and 3, the director may authorize the sale of selected prison industry products to wholesale and retail outlets. All other prison industry products must be limited for sale to nonprofit, charitable, and tax-supported organizations, institutions, and agencies and to municipal, county, state, or other governmental subdivisions and agencies. All governmental entities may purchase available products from the prison industries unless such purchase from the prison industries is impractical or prohibited by law. The department shall keep a true and accurate account of all receipts from the established industries and deposit the earnings in an account as provided by law. Sales of prison industry products are subject to the following:

1. All hardwood, fiberesin, upholstered, and metal art work products made in the prison by roughrider industries, or other factory that manufactures the above products, may be purchased directly by state agencies and political subdivisions for use in government-owned or rented buildings and by nonprofit organizations, excluding trade associations, fraternal organizations, co-ops, and health insurance companies. All other prison-made hardwood, fiberesin, upholstered, and metal art work products

may be sold only through wholesale or retail outlets that possess a valid sales tax permit or through export firms for sale to international markets.

2. Hardwood, fiberesin, upholstered, and metal art work products manufactured by roughrider industries, or other factory that manufactures the above products, and purchased by state agencies, nonprofit organizations, and political subdivisions may not be disposed of or leave the premises of the state agency, nonprofit organization, and political subdivision for a period of ten years from the date of the original purchase without written authorization from the director of the department of corrections and rehabilitation.
3. Subsections 1 and 2 do not prevent the sale of prison-made hardwood, fiberesin, upholstered, or metal art work products to any state institution or facility operated by the director of the office of management and budget or by the director of the department of corrections and rehabilitation.

**12-48-03.2. Prison industry authorized to trade, barter, and exchange merchandise, equipment, and services.** Prison industry is authorized to trade, barter, and exchange merchandise, equipment, and services with any state agency if such is in the best interest of the prison industry and approved by the warden and the director of the department of corrections and rehabilitation.

**12-48-03.3. Roughrider industries' operating fund - Bank of North Dakota.** Roughrider industries may establish its own operating fund in the Bank of North Dakota. Interest earned on the roughrider industries' operating fund shall be deposited in the state general fund. Roughrider industries may use its own manufacturing accounting system and must report annually its revenues and expenditures to the office of management and budget for the purpose of its financial statements being included in the state's comprehensive audited financial statements.

**12-48-04. Inmates may be employed in improving roads and streets.** Repealed by S.L. 1989, ch. 156, § 54.

**12-48-05. Conditions for employing inmates outside of the penitentiary.** Repealed by S.L. 1989, ch. 156, § 54.

**12-48-06. Labor of inmates - Sale of articles produced.** Inmate labor may be used by the state in carrying on farming and ranching operations, or in any industry established at the penitentiary, and the state may dispose of the products of the farming and ranching enterprises. The industry products may be disposed as provided in section 12-48-03.1. Sales to visitors and the general public by inmates of articles made by them in hobby shall be permitted under such rules and regulations as may be established by the warden.

**12-48-06.1. Prison industry advisory committee.** There is hereby established a prison industry advisory committee which consists of the director of the department of corrections and rehabilitation and seven members, three of whom are representatives of industries similar to those within the prison. Prior to July 1, 1991, the governor shall appoint two board members for a term of one year, two for a term of two years, two for a term of three years, and one for a term of four years. Thereafter appointments must be for four-year terms. Members may not serve more than two consecutive terms. Meetings of the committee must be called by the chairperson, who must be elected from within the membership. The appointed members must be paid mileage and expenses by the prison industry as authorized for state officials and employees.

**12-48-07. Tools and equipment.** The warden, under the direction of the director of the department of corrections and rehabilitation, shall procure the machinery, tools, and equipment necessary to carry on and conduct the work and industries of the penitentiary. Procurement must be made by the warden according to chapter 54-44.4 and rules adopted under that chapter.

**12-48-08. Penitentiary tannery.** Repealed by S.L. 1965, ch. 108, § 1.

**12-48-09. Manufacture of coffins at the penitentiary.** Repealed by S.L. 1965, ch. 108, § 1.

**12-48-10. Marking of coffins.** Repealed by S.L. 1965, ch. 108, § 1.

**12-48-11. Sale of coffins - Price - Use of proceeds.** Repealed by S.L. 1965, ch. 108, § 1.

**12-48-12. Manufacture and sale of license plates and road signs.** Repealed by S.L. 1977, ch. 114, § 3.

**12-48-13. Use of receipts from sale of license plates and road signs.** Repealed by S.L. 1977, ch. 114, § 3.

**12-48-14. Compensation of offenders.** Offenders who work at the penitentiary or in its prison industries shall receive compensation in an amount to be determined by the warden and approved by the director of the department of corrections and rehabilitation within the limits of legislative appropriations for that purpose. The warden shall assign work to each offender and shall pay the offender based on the amount of work the offender performs, up to the maximum compensation determined by the warden. If an offender has worked in excess of ten hours per day, the offender shall receive such additional compensation as the warden may allow. All offenders working in prison industries may receive pay based upon actual production of salable items as determined by the warden, to be paid out of funds the legislative assembly appropriates.

**12-48-15. Disposition of moneys earned - Warden to keep account of money earned by inmates - Investment in interest-bearing accounts.**

1. The warden of the penitentiary shall keep an account for each inmate. Not more than fifty percent of an inmate's penitentiary earnings, as provided by penitentiary rules, must be withheld from an inmate and deposited in a separate account for the inmate and may not be made available to the inmate until the inmate's release from the penitentiary, except as authorized by the warden. The remainder of an inmate's earnings must be made available to the inmate on a regular basis.
2. Inmates may, in writing, authorize the warden or designee to deposit any of their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account must be a two-signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. The warden may directly deposit an inmate's funds from sources outside of the penitentiary in any bank or account the inmate may designate. If a court order does not allow an inmate to designate a bank or account other than a Bank of North Dakota account or if it is necessary for the benefit and protection of the inmate, the warden, upon written explanation to the inmate, shall deposit an inmate's funds from sources outside the penitentiary into a Bank of North Dakota account. The department of corrections and rehabilitation and its divisions, departments, officers, and employees may not be held responsible or liable for any inmate income or funds deposited into a bank or account designated by an inmate.
4. The warden is responsible for guiding inmates in making proper use of their funds to pay their obligations, including the payment of any administration fee, court-appointed counsel fees, court-ordered restitution, support for dependent relatives, or to provide for their own medical, surgical, eye care, or dental treatment or services not generally provided by the state. The warden may withdraw funds from an inmate's penitentiary account or Bank of North Dakota two-signature account, without the inmate's signature, to meet the inmate's legitimate financial obligations. Before the funds may be withdrawn, the inmate must first receive

written notice and be provided a penitentiary administrative hearing with the right to penitentiary staff assistance and the right to appeal to the director of the department of corrections and rehabilitation. An inmate is not entitled to prior written notice, administrative hearing, or right to an appeal to the department of corrections and rehabilitation when funds are to be withdrawn for payment of a court-ordered obligation, including child support, provided the inmate has had notice and an opportunity to be heard in the court proceedings.

5. The warden may pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the penitentiary, when the inmate is transferred to a county jail or regional correctional center or placed in community corrections confinement. The warden shall pay an inmate all funds in the inmate's account less the inmate's outstanding obligations to the penitentiary when the inmate is transferred to a correctional facility outside of this state, released on parole, or discharged from the penitentiary.

**12-48-16. Disposition of earnings of inmate with dependents.** Repealed by S.L. 1975, ch. 111, § 6.

**12-48-17. Disposition of earnings of inmate with dependents when more than fifty dollars in temporary aid account.** Repealed by S.L. 1975, ch. 111, § 6.

**12-48-18. Disposition of earnings of inmate who has no dependent relatives.** Repealed by S.L. 1975, ch. 111, § 6.

**12-48-19. Disposition of earnings of inmate who has no dependent relatives when more than fifty dollars in temporary aid account.** Repealed by S.L. 1975, ch. 111, § 6.

**12-48-20. Disposition of earnings of prisoner who escapes or violates parole.** The money in a prisoner's penitentiary or Bank of North Dakota two-signature account or any property belonging to a prisoner who escapes or violates the prisoner's parole shall be forfeited and used to pay the expense of the prisoner's apprehension and capture. Any of the prisoner's funds or property that is not required to pay for the prisoner's apprehension and return to the penitentiary may be transferred by the warden into the penitentiary inmate betterment fund.

**12-48-21. Disposition of unclaimed money.** Any money which has been earned by any inmate and credited to his account shall be transferred to the general fund in the state treasury if such money is not claimed within one year after the inmate earning it has been released from the penitentiary unless the law makes other specific provision for its disposition.

**12-48-22. Fines for misconduct of offender.** The warden, with the approval of the director of the department of corrections and rehabilitation, shall institute and maintain a uniform system of fines and penalties to be deducted from the compensation credited to any offender for misconduct or refusal to perform the daily task assigned.

**12-48-23. Employment of penitentiary inmates in book salvage - Receipts.** Repealed by S.L. 1977, ch. 114, § 3.